

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4612 of 1997

with

CIVIL APPLICATION NO.10859 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and

MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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GSRTC

Versus

SANTIBEN AMRUTBHAI PATEL

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Appearance:

MR KS JHAVERI for Petitioner

MR ZUBIN F BHARDA for Respondent No. 1

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CORAM : MR.JUSTICE J.N.BHATT and

MR.JUSTICE A.M.KAPADIA

Date of decision: 15/04/98

ORAL JUDGEMENT

Per Bhatt,J.

Admit, service of notice is waived by Mr. Bharda

,learned advocate for the respondents. upon joint request, the matter is taken up for final hearing today.

The appellant-original opponent No.2 has challenged the legality and validity of the judgment and award recorded by the MACT, Valsad at Navari in MACP No. 460 of 1988 by filing this appeal under Section 173 of the Motor Vehicles Act, 1988.

The respondents are the heirs and legal representatives of deceased Amrutbhai Lallubhai who claimed compensation of Rs. 3,00,000/- for the untimely demise of the deceased on account of tortious act on the part of the driver of the S.T. Corporation in a road accident which occurred on 21.6.1988. On the date of the accident, the deceased was proceeding as pillion rider and one Rasudas Ganeshdasji Vaishnav was driving the motor cycle. When he reached near the Salvav bus stand, at that time, S.T. bus bearing No. GRT 7441 came from the opposite direction. The tribunal has found that deceased sustained serious injuries in the aforesaid road accident on account of rash and negligent driving on the part of the driver of the S.T. bus and awarded an amount of Rs. 2,13,000/under both the heads which is under challenge before us.

The deceased was about 35 years of age who was dealing in labour contract for centering work. It was the case of the claimants was deceased was earning about Rs.2,000/per month at the relevant time and would have earned more amount by advancement of age. The claimants, therefore, claimed an amount of Rs.3,00,000/-. The tribunal has dealt with this aspect in para 12 of the impugned judgment. In view of the facts and circumstances emerging from the record of the case, we are of the opinion that the amount of compensation awarded by the tribunal is on higher side. Ends of justice will be satisfied if the amount is reduced and a lump sum amount of Rs. 1,80,000/ is awarded, instead of Rs. 2,13,000/-. Direction of the tribunal with regard to interest is justified. We, therefore, do not disturb that finding.

In the circumstances, the appeal is partly allowed and the amount is reduced as stated above. The parties are directed to bear their own costs. Since the amount under the impugned award has already been deposited before the tribunal as stated before us, the amount of Rs. 1,80,000/- shall be disbursed and invested with proportionate cost and interest prorata in terms of the award. Remaining amount shall be refunded to the appellant .if full amount is deposited. No orders on

civil application.

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